

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
Jamie H. Bassel DC PC d/b/a NEW YORK CITY
CHIROPRACTIC,
:

Plaintiff,
:

-v-
:

AETNA HEALTH INSURANCE COMPANY OF NEW
YORK, et al.,
:

Defendants.
:
:
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20-CV-9019 (JMF)

MEMORANDUM OPINION
AND ORDER

JESSE M. FURMAN, United States District Judge:

On January 6, 2022, the Court entered a Memorandum Opinion and Order scheduling oral argument for this afternoon on Defendants’ motion to dismiss. *See* ECF No. 45. The Order directed the parties to be prepared to address various issues relating to the substance of Defendants’ motion and “[w]hether Plaintiff’s counsel should be ordered to show cause why sanctions should not be imposed based on, among other things, the misstatements of law and largely inapplicable and uncited arguments lifted verbatim from cases (some outdated) contained in his opposition to the motion to dismiss.” *Id.* at 4 (citing cases).

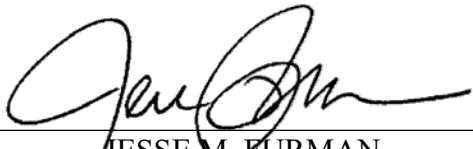
Earlier today, the parties submitted a stipulation of voluntary dismissal, *see* ECF No. 51, which the Court has so ordered. The stipulation of dismissal closes the case and moots Defendants’ motion, but it does not moot the question of whether sanctions should be imposed. *See, e.g., Rice v. NBCUniversal Media, LLC*, No. 19-CV-447 (JMF), 2019 WL 3000808, at *4 (S.D.N.Y. July 10, 2019) (noting, in imposing sanctions on the plaintiff’s counsel, that “voluntary dismissal ‘does not preclude the district court from considering collateral issues such as sanctions.’” (quoting *U.S. D.I.D. Corp. v. Windstream Commc’ns, Inc.*, 775 F.3d 128, 134 (2d

Cir. 2014)). That is for good reason: Counsel should not be permitted to engage in sanctionable conduct before a tribunal and to then avoid the consequences by dismissing the case.

Accordingly, the Court retains jurisdiction to consider whether sanctions would be appropriate in this case. To that end, Plaintiff's counsel is ORDERED to show cause in writing, no later than **January 27, 2022**, why sanctions should not be imposed in connection with his submissions in opposition to Defendants' motion to dismiss. Defendants are not required to file a response, but may do so — in which case it shall be filed no later than **February 3, 2022**. No reply will be permitted without prior leave of Court.

SO ORDERED.

Dated: January 13, 2022
New York, New York



JESSE M. FURMAN
United States District Judge